# Ban Culture 1AC

## 1AC

### Part 1: Framework

#### IF YOU DON’T LIKE AN IDEA, SHUT THE SPEAKER UP. From banning Muslims to womxn’s rights, Trump has created a securitized nightmare that celebrates violent censorship. Thus, the Role of the Judge is to Promote Critical Education, which means they must enhance our potential to fight dominant, oppressive social biases.

**Giroux 1:** Giroux, Henry A. [Waterbury Chair Professor, Pennsylvania State University] “Combating Trump's Neo-Fascism and the Ghost of ‘1984.’” Truthout, February 2017. RP

How else to explain the support that Trump has received from a number of ruthless dictators who head reactionary governments, such as the Philippines, Turkey and Egypt, among others? Such a danger is all the more ominous given the current collapse of civic literacy and the general public's increasing inability to deal with complex issues on one hand, and the attempt, on the other hand, by those who maintain power to ruthlessly promote a depoliticizing discourse of lies, simplicity and manufactured distortions. **The United States has entered a new historical conjuncture that echoes elements of a totalitarian past.** Hannah Arendt, Sheldon Wolin and Robert Paxton, the great theorists of totalitarianism, believed that the fluctuating elements of fascism are still with us and that as long as they are, they will crystalize in different forms. Far from being fixed in a frozen moment of historical terror, these theorists believed that totalitarianism not only "heralds as a possible model for the future" but that its "[protean origins are still with us](http://www.hannaharendtcenter.org/?p=12466)." **Arendt, in particular, was keenly aware that a culture of fear, the dismantling of civil and political rights, the ongoing militarization of society, the attack on labor, an obsession with national security, human rights abuses, the emergence of a police state, a deeply rooted racism and the attempts by demagogues to undermine education as a foundation for producing critical citizenry were all at work in American society.** Historical conjunctures produce different forms of authoritarianism, though they all share a hatred for democracy, dissent and human rights. More recently, Robert Paxton in his seminal work, The Anatomy of Fascism, provides a working definition of fascism that points to both its anti-democratic moments and those elements that link it to both the past and the present. Paxton's point is not to provide a precise definition of fascism but to understand the conditions that enabled fascism to work and make possible its development in the future. Accordingly, he argues that fascism is: A form of political behavior marked by obsessive preoccupation with community decline, humiliation or victimhood and by compensatory cults of unity, energy and purity, in which a mass-based party of committed nationalist militants, working in uneasy but effective collaboration with traditional elites, abandons democratic liberties and pursues with redemptive violence and without ethical or legal restraints, goals of internal cleansing and external expansion. It is too easy to believe in a simplistic binary logic that strictly categorizes a country as either authoritarian or democratic and leaves no room for entertaining the possibility of a mixture of both systems. **American politics today suggests a more updated if not different form of authoritarianism or what might be called the curse of totalitarianism**. In Trump's America, there are strong echoes of the fascism that developed in Europe in the 1920s and 30s. **For instance, there are resemblances to a fascist script in Trump's scapegoating of the "other"** his claim that the United States is in a period of decline;  his call to "Make America Great Again;" his blatant appeal to ultra-nationalism;  his portrayal of himself as a strongman who alone can save the country; his appeal to aggression and violence aimed at those who disagree with him; his contempt for dissent; his deep-rooted anti-intellectualism, or what Arendt called "thoughtlessness" (i.e., denial that climate change is produced by humans) coupled with his  elevation of instinct and emotion over reason; his appeal to xenophobia, national greatness and support for a politics of disposability; his courting of anti-Semites and white supremacists; his flirtation with the discourse of racial purity; his support for a white Christian public sphere; his use of a kind of verbal waterboarding to denigrate Muslims, Blacks, undocumented immigrants and women's reproductive rights; his contempt for weakness and his enthusiasm for hyper-masculinity. **He adds**: While such actions may not rise to the level of book burning that was characteristic of various fascist and authoritarian regimes in the past, it does mark a distinctive retreat from historical memory and civic courage that serves to normalize such actions by **making dissent appear, at best, unreasonable and at worst, an act of treason**. Such actions become apparent in efforts by the mainstream press to rage against the rise of "fake news," suggesting that by doing so, their integrity cannot be questioned. Of course, the term "fake news" **is** slippery and can be deployed to political ends -- **a** maneuver which is on full display particularly when used by Trump and his merry band of liars to dismiss anyone or any organization that holds him accountable for his fabrications. Hence, there were no surprises when Trump at his first president-elect press conference refused not only to take questions from a CNN reporter because his network had published material critical of Trump but also justified his refusal by labeling CNN as fake news -- reducing the term to a slogan used to silence the press. Clearly, we will see more of this **type of bullying repression and censorship, and traditional democratic public spheres, such as higher education, will also feel the brunt of such an attack.** Any analysis of the forces behind the normalization of the Trump administration and its assault on the truth, if not democracy itself, must include the powerful role of the conservative media in the United States. Former conservative radio talk show host Charles Sykes recently published a [remarkable op-ed](https://www.nytimes.com/2017/02/04/opinion/sunday/why-nobody-cares-the-president-is-lying.html) arguing that over the last few decades, right-wing media played a major role in discrediting and delegitimizing the fact-based media. In doing so, **it** destroyed "much of the right's immunity to false information."

#### The Role of the Ballot is to Endorse the Better Method for Critically Empowering Students. Critical empowerment exists when we have the skills to question and attack the status quo. This is key to ALL alternatives.

**Giroux 2:** Giroux, Henry A. [Waterbury Chair Professor, Pennsylvania State University] “Radical Politics in the Age of American Authoritarianism: Connecting the Dots.” *Truthout*,April 2016. RP

At the root of this notion of developing a comprehensive view of politics is the need for educating ourselves by developing a critical formative culture along with corresponding institutions that promote a form of permanent criticism against all elements of oppression and unaccountable power.**One important task of emancipation is to fight the dominant culture industry by developing alternative public spheres and educational institutions capable of nourishing critical thought and** action. The time has come for educators, artists, workers, young people and others to push forward **a** new **form of politics** in which public values, trust and compassion trump neoliberalism's celebration of self- interest, the ruthless accumulation of capital, the survival-of-the-fittest ethos and the financialization and market-driven corruption of the political system. Political responsibility is more than a challenge -- it is the projection of a possibility in which new modes of identification and agents must be enabled that can sustain new political organizations and transnational anti-capitalist movements. Democracy must be written back into the script of everyday life, and doing so demands overcoming the current crisis of memory, agency and politics by collectively struggling for a new form of politics in which matters of justice, equity and inclusion define what is possible. Such struggles demand an increasingly broad-based commitment to a new kind of activism. As Robin D. G. Kelley has recently noted there is a need for more pedagogical, cultural and social spaces that allow us to think and act together, to take risks and **to get to the roots of the conditions that are submerging the United States into a new form of authoritarianism wrapped in the flag, the dollar sign and the cross.** Kelley is right in calling for a politics that places justice at its core, one that takes seriously what it means to be an individual and social agent while engaging in collective struggles. We don't need tepid calls for repairing the system; instead, we need to invent a new system from the ashes of one that is terminally broken. We don't need calls for moral uplift or personal responsibility. We need calls for economic, political, gender and racial justice. Such a politics must be rooted in particular demands, be open to direct action and take seriously strategies designed to both educate a wider public and mobilize them to seize power. The left needs a new political conversation that encompasses memories of freedom and resistance. Such a dialogue would build on the militancy of the labor strikes of the 1930s, the civil rights movements of the 1950s and the struggle for participatory democracy by the New Left in the 1960s. At the same time, there is a need to reclaim the radical imagination and to infuse it with a spirited battle for an independent politics that regards a radical democracy as part of a never-ending struggle. **None of this can happen unless progressives understand education as a political and moral practice crucial to creating new forms of agency, mobilizing a desire for change and providing a language** that underwrites the capacity to think, speak and act so as to challenge the sexist, racist, economic and political grammars of suffering produced by the new authoritarianism. The left needs a language of critique that enables people to ask questions that appear unspeakable within the existing vocabularies of oppression. We also need a language of hope that is firmly aware of the ideological and structural obstacles that are undermining democracy. We need a language that reframes our activist politics as a creative act that responds to the promises and possibilities of a radical democracy. Movements require time to mature and come into fruition. They necessitate educated agents able to connect structural conditions of oppression to the oppressive cultural apparatuses that legitimate, persuade, and shape individual and collective attitudes in the service of oppressive ideas and values. Under such conditions, radical ideas can be connected to action once diverse groups recognize the need to take control of the political, economic and cultural conditions that shape their worldviews, exploit their labor, control their communities, appropriate their resources, and undermine their dignity and lives. Raising consciousness alone will not change authoritarian societies, but it does provide the foundation for making oppression visible and for developing from below what Étienne Balibar calls "practices of resistance and solidarity." We need not only a radical critique of capitalism, racism and other forms of oppression, but also **a critical formative culture and cultural politics that inspire, energize and provide elements of a transformative radical education in the service of a broad-based democratic liberation movement.**

**Thus, whoever better promotes critical empowerment wins.**

#### And confronting securitization is key to empowerment, since states use the logic of security to shut critics up.

**Larrinaga**: Larrinaga, Miguel de. [Assistant Professor, University of Ottawa] Published in *Securing Outer Space: International Relations Theory and the Politics of Space*, edited by Natalie Bormann and Michael Sheehan. New York: Routledge, 2009. BE

Within the context of security studies, and informed by the above, this approach is also intimately associated with an understanding of security as a speech act as developed by Ole Weaver and the Copenhagen School (Buzan et al. 1998). In short, and in relation to the above discussion on essence, treating security as a speech act means, as Ole Weaver explains, that you do not understand it as "a sign that refers to something more real, the utterance its elf is the act." (Waever 1995: 55). In other words, what makes **a security issue a security issue is not the fact that the threat is itself intrinsically a security threat, but that it is framed as such by calling it one.** However, **this does not simply mean that making an issue a security issue occurs solely in the ideational realm.** On the contrary, **by making an issue a security issue**, certain practices and **technologies associated with security are deployed in order to neutralize** what has been deemed **a "security threat**." Understanding something as a security issue is thus never a neutral enterprise. Furthermore, Between blind faith and deep skepticism 1 3 3 through this understanding of security, more security is not always a good thing. Understanding security in this way has thus led to calls to either desecuritize certain issues or to not make an issue a security issue in the first place - e.g. immigration (Huysmans 1 995) or the environment (Deudney 1 990). **In [U]nderstanding security as a speech act, one understands the deployment of a security discourse as a way to bring a certain issue under the realm of state decision and control. As Weaver suggests, "(I)n naming a certain development a security problem the ‘state’ can claim a special right, one that will, in the final instance, always be defined by the state and its elites" (1995: 54).** In securitizing an issue, therefore, one fundamentally shifts it into a specific realm. For Buzan et a!., this process is one of politicization, in that it becomes part of public policy and government decision or, at its extreme, it is deemed an existential threat which would require emergency measures. As the authors note: "Security" is the move that takes politics beyond the established rules of the game and frames the issue either as a special kind of politics or as above politics. Securitization can thus be seen as a more extreme version of politicization. ( 1 998: 23) However, **this** is premised upon an understanding of the political as having to do with state policy - i.e. an issue becomes political once government decision and resource allocation is involved. If, however, we understand the political, as adumbrated above then making an issue a security issue is a depoliticizing move in that one **removes this issue from** social contestation. In this, my position on the relationship between securitization and the political is closer to that of Jenny Edkins who understands securitization in the following terms: When issues are "securitized" they are even more firmly constrained within the already accepted criteria of a specific social form . . . . Issues of "security" are more removed from **public debate** and decision than issues of "politics"; in most cases these issues are secret, and even the existence of such matters are concealed. Decisions about them are taken in technical terms, following the advice of experts in military affairs or defense.

### Part 2: Live Free and Die

#### Trump’s war on free speech has just begun, and it’s getting worse.

**Payne 1:** Payne, Daniel. [Senior Contributor, *The Federalist*] “[The Coming Free Speech Apocalypse](http://thefederalist.com/2016/08/22/the-coming-free-speech-apocalypse/).” *The Federalist*, August 2016. RP

You might think the Republican nominee for president would stand as a counterweight to the Democratic nominee’s censorious tendencies. You would be wrong. Trump himself has come out against super PACs, which are simply coalitions of American citizens who have banded together to voice their political opinions. **Trump has also vowed to “open up” libel laws in order to silence his critics. Lest you think this is an empty threat, it’s important to note Trump has already admitted to using libel laws to silence his critics. He also called for “closing [the] Internet up in some way” to combat terrorism, while dismissing those who would be concerned about freedom of speech as “**foolish **people.” Would the GOP stand against Trump’s demonstrable hostility to the First Amendment? Not likely. Much of [T]he Republican establishment has already proven itself reluctant to challenge Trump in any substantive way**. Trump’s obvious antipathy to freedom of speech, coupled with his strongman ambitions and lack of resistance from an emasculated GOP, could pose a serious if not existential threat to American freedom of expression. Surely, even if our corrupt and power-hungry elite ruling class opposes freedom of speech, the American people will resist any real efforts to curtail the First Amendment, right? Not so fast. There are genuinely distressing signs that **[T]he culture of American free speech is as** endangered **as the policy. Some poll numbers suggest as much: two-thirds of Americans, for instance, think people who engage in “hate speech” are “more dangerous” than the people who would censor it.**

#### Worse, ban culture already thrives on college campuses.

**Powers 1:** Powers, Kirsten A. [[CNN](https://en.wikipedia.org/wiki/CNN) Commentator] *The Silencing: How the Left is Killing Free Speech.* Regnery Publishing, 2015. RP

**The people who smeared Kaminer as a racist and who routinely demonize those who express the “wrong” views, a**re what I call the “illiberal left.” They are **most prevalent on college campuses** and in the media – not insignificant perches from which to be quashing debate and dissent **– but their tentacles are expanding into** every sector **of society. They** consider themselves liberals, but act in direct **contradiction to the fundamental liberal values of free speech,** debate, and dissent. What distinguishes them from mainstream liberals your average Democrat (who shares many of the illiberal left’s policy inclinations) is not so much what they believe, but how they believe it. Most people who reside on the left side of the political spectrum can tolerate difference of opinion without turning into authoritarian speech police. They can either engage or ignore people with whom they disagree. They are not moved to, for example, **call for jail time for their ideological opponents** as environmentalist Robert F. Kennedy Jr. did for the Koch brothers. More on that later. The illiberal left, on the other hand, believes that people who express ideological, philosophical, or political views that don’t line up with their preferences should be completely silenced. Instead of using persuasion and rhetoric to make a positive case for their causes and views, they work to delegitimize the person making the argument through character assassination, demonization, **and** dehumanizing tactics. **These are the self-appointed overlords** – activists, university administrators, journalists, and politicians – **who have determined what views are acceptable to express. So,** shut up – or else.

#### And like the United Airlines passenger dragged off a plane for not complying with baseless demands, speech codes use *violent enforcement* in the name of security.

**Godrej:** Godrej, Farah. [Professor of Political Science, UC Riverdale] “Neoliberalism, Militarization, and the Price of Dissent.” Published in Piya Chatterjee and Sunaina Maira (eds.),*The Imperial University: Academic Repression and Scholarly Dissent*. University of Minnesota Press, 2014. RP

In this chapter, **I argue that the neoliberal logic of private capital at work in the privatization of the University of California is necessarily intertwined with the logic of militarization and the criminalization of dissent. I will argue that the deliberate and systematic privatization of one of the nation’s greatest public education systems engenders—and in fact** *requires* **a militarized enforcement strategy that relies on criminalizing those who dissent and on being able to engage in legitimized** violence **against such dissenters as and** when necessary. The enforcement of the tuition hikes, budget cuts, and other so-called austerity measures at the heart of the privatization strategy is an irreducibly political project, not simply because it relies on a rhetorical polit- ical strategy that cleverly assigns responsibility for privatization to recalci- trant state legislators who insist on state disinvestment in public education rather than to those elites within the UC leadership who stand to bene t from such privatization. It is political and politicized in a much deeper sense in that it is able to plausibly and powerfully squash all public dissent from this plan by **casting those who dissent against its neoliberal logic as criminal, ensuring that the “price” of their dissent—whether in terms of violence, jail time, or simply public stigmatization—is high enough to discourage further** dissent. It uses the legal-political resources of the neoliberal state and repli- cates the neoliberal state’s complicity with private capital in order to build political legitimacy for its repression of dissenting views. The basic premise of my chapter—that the leadership of the University of California has since 2009 been committed to the deliberate and system- atic privatization of one of the nation’s premier public education systems— should not be in question. **She adds:**  UC Davis professor and poet Joshua Clover, who was arrested as part of the civil disobedience movement against privatization, goes on to point out that while the specifics of such connections may vary, the systemic logic is clear: “Heightened campus security is inextricably linked to heightened campus securitization in its two main forms: the decision of universities to pursue a certain line of investment strategies which move money away from educa- tional services and into capital projects; and the corresponding decision to cover those educational costs by shi ing burdens to students at a rate which can only be nanced though student loans, concomitantly providing pro t- able investment for banks laden with otherwise fallow capital. e rise in tuition and indebtedness within the context of economic crisis simply is the militarization of campus; they are one and the same.”5 **In other words, to paraphrase UC Davis faculty member and activist Nathan Brown, police brutality is an administrative tool** to enforce tuition increases6 precisely because of the link between privatization and militarization. In short, it is no accident that **we see the repeated deployment of armored, armed, militarized police forces on campuses where large crowds of students and faculty and staff gather to protest the erosion of the accessibility and affordability of public education. Nor should it have been surpris- ing that in July 2012, the UC Berkeley police department briefly considered the purchase of an armored military tank with grant funds from the U.S. Department of Homeland Security. UC administration is willing to, able to, and indeed does deploy militarized force in order to make the cost of dissent high. Note that its deployment of both campus police and external police forces makes the neoliberal state complicit in the militarization of these campus spaces**. So this is one sense in which it is in the administration’s interest to make sure that the cost of protest and dissent is high. **The message is clear that if dissent occurs publicly and collectively, those involved are likely to be pepper sprayed, beaten with batons, shoved to the ground, shot with lead paint bullets, and so forth. It is better**, in short, to **stay home and silent** rather **than** to **participate** in such events.

#### Further, *any* speech restriction entrenches the harm, since there’s no logical stopping point to what can be banned.

**Powers 2:** Powers, Kirsten A. [[CNN](https://en.wikipedia.org/wiki/CNN) Commentator] *The Silencing: How the Left is Killing Free Speech.* Regnery Publishing, 2015. RP

**For many Americans the term “speech code” sends shivers up the spine.** Yet these noxious and un-American codes have become so commonplace on college campuses across the United States. They are typically so broad that **they could include** literally anything **and are subject to the interpretation of school administrators who frequently fail to operate as honest brokers. In the hands of the illiberal left, the speech codes are weapons to silence anyone – professors, students, visiting speakers – who expresses a view** that deviates from the left’s worldview or ideology. Speech **that offends them is redefined as “harassment” or “hate speech”** both of which are barred by most campus speech codes. At Colorado College, a private liberal arts college, administrators invented a “violence” policy that was used to punish non-violent speech. The consequences of **violating a speech code are serious: it can often lead to public shaming, censoring, firings, suspensions, or expulsions, often with no due process.**

#### Indeed, schools can *always* enforce restrictions to extend beyond their initial purpose.

**Mitchell:** Mitchell, Don. [Professor of Geography, Syracuse University] “The Liberalization of Free Speech: Or, How Protest in Public Space is Silenced.” *Stanford Agora*,Volume 4, 2003. RP

As importantly, and as I have explored in detail in other work, it is problematic because it puts into place - by implication in Holmes's own words, but later made explicit in a whole series of cases - a distinction between speech and conduct. Even "First Amendment absolutists," like Justice Hugo Black saw nothing wrong with the regulation of peaceful rallies if their conduct interfered with some other legitimate interest. This conduct could be widely interpreted. For most of the first half of the twentieth century, conduct that could be prohibited included the mere act of picketing. Courts upheld numerous injunctions against picketing on the basis that the conduct it entailed was necessarily either violent or harassing. Indeed, in one famous case in the 1920s, Chief Justice William Taft wrote of picketing, that its very "persistence, importunity, following and dogging" offended public morals and created a dangerous nuisance.40 The problem with picketing, Taft thought, was twofold. First, through its combination of action and speech, it tried to convince people not to enter some establishment; second, it intended to draw a crowd. To the degree it did both - that is, to the degree that is successfully communicated its message - it interrupted business and, in Taft's eyes, undermined the business's property rights, and therefore could be legitimately enjoined. **Speech was worth protecting to the degree that is was not** **effective. Not until the 1940s did the Court begin to recognize that there might be an important speech right worth protecting in addition to the unprotected conduct**. There is an additional result of Holmes's declaration about the value of speech in Abrams. Whereas the First Amendment is silent on why speech is to be protected from Congressional interference, Holmes makes it clear that the protection of speech serves a particular purpose: improving the state. Indeed, he quickly admits that speech likely to harm the state can be outlawed. And neither he nor the Court ever moved away from the "clear and present danger" test of Schenck. Speech, Holmes argues, is a good insofar as it helps promote and protect the "truth" of the state. **There is a large amount of room allowed here for criticism of the state, but it can still be quieted by** anything **that can reasonably be construed as a “legitimate state interest” (like protecting the property rights of a company subject to a strike).** 49 According to the Gitlow Court (if not Holmes, who did not see in Gitlow's pamphlet enough of a clear and present danger), **any speech that "endanger[s] the foundations of organized government and threaten[s] its overthrow by unlawful means" can be banned. Note here that speech does not have to advocate the overthrow of government; rather, it can be banned if through its persuasiveness others might seek to overthrow the government**. On such grounds all manner of manifestos, and many types of street speaking, may be banned. And more broadly, as evidenced in picketing cases like American Steel Foundries, a similar prohibition may be placed on speech that, again through its persuasiveness (e.g. as to the unjustness of some practice or event) rather than through direct exhortation, may incite people to violence. **He adds:** Nonetheless, whatever rights have been won, have been won through struggle and often not by following the law, but by breaking it. Civil disobedience, by labor activists and other picketers, by civil rights marchers, by anti-war protesters, and by Free Speech activists (as with the Free Speech Movement in Berkeley in the sixties), has forced often illiberal theories of speech and assembly to be reconsidered. But against these struggles has to be set a history of governmental recidivism: the Palmer raids and Red Scare of 1919-1920, **the Smith Act of 1940, the McCarthy era, and the antics of COINTELPRO in the 1960s and 1970s, are just a few of the more well-known moments of repression, often cloaked in law and justified as urgent “legitimate state interests” at a time when serious challenges were being made to the “established order” or when other exigent factors induced panic within the government and the public at large.** The history of speech and assembly, that is, can be told as an on-going struggle against recurring illiberalism. We are, most likely, now reentering an illiberal phase, and if I am right that civil disobedience has always been necessary to winning and securing rights to assembly and speech, there is a great deal to be deeply concerned about. For the closing off of space to protest has made civil disobedience all the more necessary right at the moment when new laws make civil disobedience not just illegal, but potentially terroristic. The witch’s brew of Supreme Court spatial regulation of speech and assembly and new anti-terrorism laws portends deep trouble for those of us who think we have a duty as well as a right to transform our government when we think it is in the wrong, a duty and a right for which street protest is sometimes the only resource. Within six weeks of the terrorist attacks of September 11, 2001, Congress had passed, and the President signed into law, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act). Among its many provisions, the Act defines as domestic terrorism, and therefore covered under the Act, "acts dangerous to human life that are in violation of the criminal laws," if they "appear to be intended ... to influence the policy of a government by intimidation or coercion" and if they "occur primarily within the territorial jurisdiction of the United States." As Nancy Chang argues: Acts of civil disobedience that take place in the United States necessarily meet three of the five elements in the definition of domestic terrorism: they constitute a "violation of the criminal laws," they are "intended ... to influence the policy of a government," and they "occur primarily within the territorial jurisdiction of the United States." Many acts of civil disobedience, including the blocking of streets and points of egress by nonviolent means during a demonstration or sit- in, could be construed as "acts dangerous to human life" that appear to be intended to influence the policy of a government "by intimidation or coercion," which case they would meet the crimes remaining elements.... **As a result, protest activities that previously would most likely have ended with a charge of disorderly conduct under a local ordinance can now lead to federal prosecution and conviction for terrorism.** As the space for protest has become more and more tightly zoned, the likelihood that laws will be broken in the course of a demonstration a demonstration seeking to "influence a policy of government" increases. And, of course, the very reason for engaging in a demonstration is to coerce, even if it is not to directly "intimidate." One should not be sanguine about the "or" placed between intimidate and coerce. It means just what it says: coercion or intimidation will be enough for prosecution.173 Now even civil disobedience can be construed as an act of terrorism.

#### And bans don’t even work – they worsen the harm they try to stop.

**Green:** Green, David Allen. [Legal Correspondent, *The New Statesman*] “Should We Ban ‘Banning’ Things?” *New Statesman*,November 2011. RP

We all want to ban something. It is a staple of our political culture. All of us are perhaps one moment away from seeking to ban what someone else is saying or doing. **The nod-a-long [R]esponses of “it shouldn't be allowed”** or "there should be a law against it" are **the common solutions to many perceived problems. However, to “ban” something is** not **actually to eliminate it**, whatever "it" is. The "it" is not extinguished; the "it" may just be attended by some different consequences. **The** **legalistic prose in a solemn document is not some magic spell** which banishes horrors by invocation. To say there should be a law against a thing is often no more than saying there should be a spell against it. In fact, **“banning” things often creates new problems. In its correct legal form, a prohibition establishes certain legal and coercive consequences should the prohibited act occur: a court order for damages, say, or a prison sentence. Being banned does not thereby stop the thing from happening. It just means that the legal system will be engaged in a way it otherwise would not** be**.** Moreover, in the complex "real world" of ever-changing and shifting political, social, and economic relationships, the general prohibition (and the coercive sanction) can sometimes only make unwelcome situations more complicated. Some behaviour may well be discouraged (the deterrence effect); but other **behaviour will be modified so as to escape detection**. Or, the behaviour may carry on as before, but worsened by the criminalization of all those involved. The easily satisfied will have their "ban" but the effects may be unfortunate or unpredictable. This is not to argue for libertarianism, still less anarchism. It is instead to urge sensible and balanced law-making. There is a positive and essential role for prohibitions and coercive sanctions in our polity. However, such laws should always be made and implemented with anxious scrutiny. Enacting the prohibition is not an end in itself. There should be regard both to the likely effects of the "ban" and to the interferences which will be made to other values important in a liberal society. So those calling for something to be "banned" should therefore ask two simple questions. First, what will the prohibition do in respect of the undesired behaviour? And second, what other consequences may flow from the prohibition? Good answers to both these questions will inform the political choice as to whether such a ban should be implemented and, if so, how. We may even get better laws as a consequence; we could even get prohibitions that actually work and are proportionate. **The call for something to be "banned" should be the start of a** mature and **constructive** political **debate,** and **not the end of one.** Perhaps **[T]he time has come to ban just banning things.**

#### Advocacy: Public colleges and universities in the United States ought not restrict any constitutionally protected speech. This makes them agents of inaction – they aren’t allowed to restrict speech.

**Kurtz:** Kurtz, Stanley. [Contributor, *National Review*] “A Plan to Restore Free Speech on Campus.” *The Corner*,December 2015. RP

First: **Colleges and universities ought to adopt a policy on freedom of expression modeled on Yale’s Woodward Report of 1974, which identifies ensuring intellectual freedom in the pursuit of knowledge as the primary obligation of a university.** While the Woodward Report forthrightly acknowledges the importance of solidarity, harmony, civility, and mutual respect to campus life, it unmistakably marks these values as subordinate in priority to freedom of expression. **In accordance with this, the Woodward Report rejects the proposition that members of an academic community are entitled to suppress speech they regard as offensive. Of course, within a university, the need for intellectual freedom is in the service of the pursuit of knowledge**. Freedom of expression is a critical consideration, yet does not in itself fully resolve issues like the structure of the college curriculum. That said, the Woodward Report can and should serve as a model for statements on free expression at our colleges and universities. **Once adopted, new statements on freedom of expression would supersede and replace any pre-existing speech codes.**

### Part 3: Open Mouths Open Minds

#### Free speech lets us *resist ban culture* and replace dictators with discourse

**Lukianoff:** Lukianoff, Greg. [President of FIRE] “How Colleges Create the ‘Expectation of Confirmation.’” FIRE, 2015. RP

**Decades after the supposed heyday of political correctness, I fear, campus culture has only moved farther away from a free speech ethic: the mythical “right not to be offended” is morphing into a stricter “right to have your views confirmed and not challenged.”** Indeed, students are coming to believe that speakers with whom they disagree should not even be allowed on campus. This move toward what I call an “expectation of confirmation” has troubling implications for American society as a whole. In this chapter I explore how the expectation of confirmation not only worsens the intellectual atmosphere on campus but also America’s broader problem of political polarization. Polarization and the Thickening Walls of Our Echo Chambers. In his 2008 book, The Big Sort: Why the Clustering of Like- Minded America Is Tearing Us Apart, journalist Bill Bishop compellingly argues that the United States is growing more politically polarized partially because Americans are increasingly moving to cities, neighborhoods, and counties that reflect their values and political beliefs. The reality of this clustering was laid out in even greater detail in Charles Murray’s 2012 book, Coming Apart, which cited extensive data about the increasing isolation of neighborhoods according to both political viewpoints and economic class. At the same time, the physical isolation that Bishop and Murray discuss is accompanied by increased opportunities to interact in online environments that reflect our existing biases. This trend was already fostered by twenty- four- hour news networks appealing respectively to conservatives and liberals, but has only accelerated as the amount of media produced by partisan websites has grown enough to occupy devoted readers every minute of every day. **Left to their own devices, humans have a tendency to prefer to hear their existing views reflected back to them—and technological advancement has only increased our ability to achieve twenty- four- hour confirmation. We should be concerned about creating echo chambers**. Well- documented social science research demonstrates that people are prone to becoming more radical, and less understanding of opposing viewpoints, the more they cluster together with the like- minded. This affinity can lead to polarization and an intensified sense of tribalism in society, as we see our opponents increasingly as something more akin to alien enemies than fellow citizens with whom we disagree (Sunstein). It’s important, however, to step back for a moment and think about how this polarization may very well be the natural result of what we might otherwise consider progress. The aggregation of people into mutually sympathetic niches not only accords with the basic American right to assembly, but it also follows from the general advance of prosperity and leisure. Ronald Inglehart has outlined the clustering of communities around shared values in his theory of modernization progressing toward the “post- materialist society.” Starting with work he published in the 1970s up through and including his work today, Inglehart theorizes that as societies become more affluent and move up Maslow’s hierarchy of needs, they increasingly seek greater opportunities not only to express themselves and their values but also to have a sense of belonging in like- minded communities. Seen in this light, the clustering of like- minded Americans seems only natural and is indeed part of the vision of a society we might all find seductive. In my everyday life I call these “problems of comfort,” in that increasingly affluent societies generate problems that are the result of relative historic abundance and security. (The modern obesity epidemic, for example, is a “problem of comfort.”) In this case, polarization is the natural result of people seeking out comfortable, self-affirming, morally coherent, and sympathetic communities. We therefore can probably expect political clustering and a propensity for groupthink to be tendencies that increase over time—as well as the illiberal mores and communication breakdowns that accompany them. It is all the more pressing, then, that we model and reform cultural institutions to combat these downsides. There is, in fact, an existing institution that can help America minimize the negative consequences of a society whose citizens increasingly are able to cocoon themselves in self- affirming communities: higher education. Whereas once only a small percentage of Americans enrolled in college, as of 2012, as many as two-thirds of high school graduates attend college for at least some amount of time (National Center for Education Statistics). That percentage gets even higher when we factor in the number of citizens who take college classes at some point in their lives. Both the Bush and Obama administrations have pressed for more access and admissions to college, and employers increasingly demand workers with skills typically acquired in postsecondary coursework. The result is an everybody- should- go- to-college mode of thought that makes higher education a central feature of American culture and society. **Given its power and reach, higher education would seem to provide a ready-made solution to the problem of a society that naturally fragments into tighter echo chambers. After all, in theory at least, higher education valorizes the Socratic style of skeptical questioning and the systematization of doubt as represented by great scientific heroes such as Newton and Einstein. Also, in the 1960s and 1970s, the academy largely embraced the free speech, “question authority” culture,** and its impact reached beyond the campus walls to become a standard feature of popular culture and political discussion. American higher education **should, therefore, be at the vanguard of teaching students to examine their assumptions,** to **engage in debate** and discussion, **to seek out opposing viewpoints, and to cultivate the crucial intellectual habit of applying skepticism to one’s most dearly held beliefs.** Unfortunately, as I illustrated in my 2012 book, Unlearning Liberty: Campus Censorship and the End of American Debate, higher education is failing to instill in students these intellectual habits, and is, to a surprising degree, teaching students not to question much at all. **He adds**: So, American academia, an institution that should help us fight the tendency of Americans to cluster ourselves in self- affirming cliques, instead encourages citizens to reinforce the walls of their echo chambers. Indeed, colleges today instill in students an unrealistic expectation that their environment should conform to their existing biases and beliefs. As they do so, young people earning college degrees fail to recognize that they inhabit a pluralistic society made up of individuals and groups with discrete and sometimes conflicting interests and outlooks, and when they encounter opposing forces, they judge them as wrongheaded or worse and act toward their suppression. Can College Help Break Down the Expectation of Confirmation? Is it possible to set things right? To produce a kind of higher education experience that teaches a generation the creativity, insight, and wisdom that is unleashed by stepping outside our comfortable self- - affirming cliques to engage those with whom we disagree and figure out why we disagree? I’m not always optimistic, but **I can chart promising steps** **toward reform. Perhaps the most important thing that universities can do is simply to require students to engage in formal debates on meaningful and controversial topics as part of general education requirements. Part of students’ orientation, too, should involve instruction in productive academic engagement, including the axiom that [W]e fight offensive speech not with censorship but with contrary words. The practice of making oneself take the other side of an argument would help critical thinking** skills**, and** it would also **reduce the likelihood of people viewing those on the “other side” as representatives of societal evil.** Being able fully to comprehend the opposing side of an argument is a vital skill that will only become more important given that the trend toward self- affirming physical and online environments is unlikely to stop. Even these modest proposals face serious challenges, the magnitude of which was brought home to me by a student with whom I spoke at Harvard in the spring of 2013. He approached me after a speech, saying that he completely believed in everything I had to say about free speech and debate on campus, but that his attempts to get Oxford- style debates on serious issues to happen was met with constant pushback. On the truly controversial issues, whether they were immigration, affirmative action, or the “War on Terror,” he added, the student population would not accept anyone representing the “other side” of the issue. Obviously, it is hard to have real discussions without a willingness to put an onus on the listener to deal with hearing an opinion he or she might dislike or believe to be wrong. After all, a key measure of being an intellectual used to be how well the thinker in question knew the details of opponents’ best arguments. **We should instruct students that educated people see it as a duty to seek out intelligent people with whom they disagree for debate and discussion. This would require** a major cultural shift **away from the way campuses currently operate[.] and is nearly impossible to achieve as long as the “right not to be offended” and the “expectation of confirmation” remain a reality on campus.** If we should be so lucky as to have a global environment in which relative material comfort continues to spread, such progress is going to produce new and emergent problems. Economic advancement, we must realize, may entail certain social and cultural costs that educational institutions must address. In much the same way that regular exercise and a disciplined diet help in the fight against obesity, teaching the intellectual habit of fighting confirmation bias, rather than expecting to have views affirmed, is crucial to the intellectual development and civic health of our society. Higher education could and should play a crucial role in this process—but it needs to take a long, hard look at itself and ask if it actually creates an environment that is conducive to the bold questioning and uncomfortable discussions that intellectual and societal innovation demands.

#### And this requires COMPLETE FREE SPEECH.

**Payne 2:** Payne, Daniel. [Senior Contributor, *The Federalist*] “[The Coming Free Speech Apocalypse](http://thefederalist.com/2016/08/22/the-coming-free-speech-apocalypse/).” *The Federalist*, August 2016. RP

All of which is to say: if we are worried about the anti-free speech ambitions of our two presidential candidates and the parties they represent, we should also be concerned about the American body politic, a substantial percentage of which is greatly inclined to censor “offensive” speech. A generation so inclined to muzzle its fellow Americans could pose an existential threat to the First Amendment. **So how do First Amendment-loving Americans fight against this rising tide of illiberal anti-speech hostility? The solution is actually quite simple: we must take an absolutist** zero-tolerance **position regarding censorship and speech policing**. In the same way that the National Rifle Association is relentless in fighting the curtailing of Second Amendment rights, **Americans must relentlessly protect First Amendment rights. This means** fighting against efforts to overturn Citizens United (and fighting more broadly against any efforts to censor and police political speech); **combating speech codes on college campuses and elsewhere; working tirelessly against the** wannabe-**tyranny of people like Trump** and platforms like that of the Democratic Party**; and fighting vigilantly for the right of all Americans to say what they want[.]**, about what they want, in whatever way they choose to do so. This does not mean you have to defend things like libel or other knowingly false and slanderous statements. It simply means you must fight for the precious free speech rights of every American citizen against the growing effort to criminalize those rights. (It might also help if you familiarized yourself with the Supreme Court rulings on free speech. **Knowledge can be an invaluable tool when fighting against illiberalism and authoritarianism.)** These concerns are not academic or theoretical. As much of the rest of the world proves, governments are usually extremely willing to silence and censor their citizens, and too often the citizenry is willing to lay down and take it. The American tradition of free speech is very strong and well-established. But that doesn’t mean it can’t be swept away. It is up to all of us—as American citizens and freeborn men and women— to guard against these encroachments on our God-given liberties, and to ensure that the invaluable American free speech regime continues as long as does the American Experiment.

#### In fact, free speech is key to instilling democratic culture.

**Balkin:** Balkin, Jack M. [Knight Professor of Constitutional Law and the First Amendment, Yale Law School] “Cultural Democracy and the First Amendment.” *Northwestern University Law Review*,Volume 110, 2016. RP

The term “democracy” comes from two Greek words, “demos” meaning people; and “kratos” meaning power.25 In its most literal sense, democracy means power to the people. **The central question of democracy is how people can have power in their own lives and over their own lives**. A responsive state accountable to the public is one way to achieve this end, but it is not the only way. There are other forms of power that exist beneath, above, and outside the state. One can also organize or critique private institutions—religions, workplaces, firms, and families—in terms of democratic principles, although the way that democracy operates in each case may differ depending on the nature of the practice. In particular, culture and public opinion—often embedded in influential private institutions—are among the most important forms of power. They influence everyone on Earth, no matter what nation-state they belong to. By participating in culture, we mutually influence each other and shape each other through the circulation of beliefs and opinions and works of art. The state draws attention to its power over individuals in countless ways, but the power of culture is so great that it may not even be noticeable when it is most effective. One reason **to protect freedom of expression is to make the power of the state accountable[,] to the people who live within it. But another reason is to give people a say over the development of the forms of cultural power that both undergird and transcend the state.** In a free society, even in one that is not perfectly democratic in its politics—or even democratic at all— people should have the right to participate in the forms of meaning-making that shape who they are and that help constitute them as individuals. This activity of meaning-making through **cultural participation, artistic expression, and comment, as well as the phenomenon of mutual influence through the circulation of opinions, long predated the rise of modern democracie**s. And it continues even in countries that are still not democratic. Moreover, in the digital age, cultural participation is not confined to national boundaries and it does not respect national boundaries. Although cultural participation may be necessary to legitimate power within nation-states, it has importance and value that goes well beyond this task. Freedom of speech rests on multiple constitutional values, not a single value. Freedom of speech supports democratic self-government—in more than one way, as we will see in a moment. But freedom of speech also protects the freedom to participate in culture. And **by protecting the right to participate in culture, freedom of speech also promotes the growth and spread of mores, opinions, values, art, and knowledge. [l]iberty-oriented theories of freedom of speech tend to emphasize individual self-expression, maintaining that speech is crucial to individual autonomy**.28 By contrast, I want to emphasize the potent effects of mutual influence on individuals and the importance of cultural power over individuals. The individual’s autonomy over his or her conscience, belief, and expression is the flip side of the individual’s heteronomy with respect to cultural power.30 The individual as individual is both the product of multiple cultures and a contributor to these cultures. What we call autonomy, or thinking for one’s self, is an unpredictable mixture of reaction to, assimilation of, and reconceptualization of the cultural forces and meanings that surround us and constitute us. Cultures of belief and opinion—for they are always plural and variegated—have the most serious and pervasive power over us. **People influence and reshape each other over time by living and participating in cultures of belief and opinion, and by operating within networks of cultural power and organized knowledge.** Moreover, cultures feature powerful institutions and practices—like families, educational organizations, science, and religion—that produce, alter, and reproduce beliefs and opinions. People come to know themselves through their assimilation, alteration, and rejection of the cultures they inhabit and that inevitably inhabit them. Freedom of speech is about power—cultural power. People have a right to participate in the forms of cultural power that reshape and alter them, because what is literally at stake is their own selves.

#### Further, affirming means minorities can make radical demands on the university, the first move away from ban culture.

**Bon 1:** Bon, Dorian [Contributor, Socialist Worker] “Who’s Behind the Free Speech Crisis on Campus?” *Socialist Workers*,April 2017. RP

-Student activism key – takes out agent CPs

-Need most free speech and demand for ourselves – answers PIC

THE TRANSFORMATION of the university into a neoliberal regime has intensified the crisis of free speech on campus. Contingent professors are justifiably afraid to express themselves openly with very little job security and power to defend themselves from their employers. Students, saddled with debt, cannot afford to risk discipline or suspension when their hopes of financial security depend on getting their diplomas and finding employment. To top it off, campuses are now dominated by an army of administrators policing student and faculty activity. This frightening state of affairs makes the effort by contingent faculty and graduate students to form labor unions an important struggle for adherents of free speech to support. The greater job security and control that unionization would bring to students, faculty and staff would go a long away toward protecting their right to free expression. **But beyond this, the combination of repression nationwide against students and the decades-long rollback of the gains of past struggles should compel us to make the fight for free speech a centerpiece of our activism on campus today. To do so requires an understanding that universal free speech and expression is a fundamental right--one that we have to expand to be able to pursue** any **of the particular aims we want to fight for on campus. The more we demand and win the right for everyone on campus--regardless of their politics--to speak, publish, organize, assemble and protest as they wish, the more power and space we build for** our side to push for our own politics of social justice and liberation. In addition to opposing campus administrations and regulations that seek to curtail speech, this will also require winning arguments with others on the left who sometimes buy into the notion that protesting injustice requires limiting free speech at an institutional level (at least the speech of those on the right)--and call for actions like banning racists and sexists from speaking on campus, for example. But endorsing limits on free speech destroys the left's capacity to fight--because such regulations are invariably used against our side. Instead, building **the left and advancing our causes necessitates a dramatic *expansion* of civil liberties, including speech--and organizing to mobilize to confront and protest racists, sexists and others on the right in an open and confident manner, with the largest forces possible.** During the first student movement in the U.S. in the 1930s, socialist students actually led the struggle for free speech on campus, and became so associated with this principle that the general student body drew a conscious connection between socialism and free expression. **The struggle for the "open forum" on UC campuses in 1934 bears this out.** As Robert Cohen points out in his book *When the Old Left Was Young*, communist students with the National Student League led the fight to allow freedom of assembly--known as the "open forum"--for all students anywhere and anytime on UC campuses. UCLA Provost Ernest Moore accused any student who advocated for the open forum of being a communist. At a mass rally on UCLA's campus, one student responding to Moore quipped, "If you are for free speech, you are a communist too." Student activists in today's age of "free-speech zones" and administrative repression need to take up this strategy. We should aim to make our struggles synonymous with the demand for the right to full free expression and assembly on campus--and beyond. **Winning that right will require struggle--and we can't rely on anyone to build that but ourselves.**

#### Indeed, the only way to get concessions from authoritarians is to speak out – empirics prove.

**Bon 2:** Bon, Dorian [Contributor, Socialist Worker] “Who’s Behind the Free Speech Crisis on Campus?” *Socialist Workers*,April 2017. RP

It’s worth assessing how the restrictions of speech on campus got to be this bad to begin with. Although it may seem surprising, the right of students to freely express themselves is actually a fairly recent phenomenon in the United States. Before the radical student movement of the 1930s, only a small minority of university administrators held the view that students should be allowed to put forward their independent positions on campus. This hostility to student speech was summed up by Columbia University President Nicholas Murray Butler in 1935, when he argued, "The phrase academic freedom has no meaning whatsoever. That phrase relates solely to freedom of thought and inquiry and freedom of teaching on the part of accomplished scholars." **Students struck, 2,000-strong, for free speech on Columbia’s campus in 1932. Mass mobilizations and strikes against war and poverty involving over half of American college students, and led by Communist and socialist organizers, won the first concessions for the free speech rights of students during the Great Depression. After a period of retreat in the 1940s and '50s, students once again sprang into action during the mass social movements against racism and war that raged throughout the 1960s until the mid-1970s.** During this time, millions struck, protested and organized on campuses around the country. **The student upsurge of the 1960s, animated by the broader radicalization in U.S. society around it, began with the free speech struggle at UC-Berkeley**, much as the 1930s movement started with a free speech fight at Columbia and City College in New York. This is not a coincidence**. The fight for free speech** preconditions all other fights, **because without the fundamental right to self-expression and organization for students,** any **independent student initiative is impossible.** Since the end of the 1970s, university leaders have coordinated an offensive to restrict student speech once again. The not-so-distant memory of the disruptive mass student movement compels academic bosses and administrators to use every mechanism at their disposal to prevent and neutralize student dissent. This led directly to a litany of new rules, restrictions and codes of conduct--like "free-speech zones" and administrative approval for student literature--which effectively curtails student organizing and conditions it to the whims of administrators.

#### Thus, changing the culture DEMANDS critical empowerment through free speech.